

1 **SANDERS LAW GROUP**  
2 Craig Sanders, Esq. (Cal Bar 284397)  
3 csanders@sanderslaw.group  
4 Jacqueline Mandel, Esq. (Cal Bar 317119)  
5 jmandel@sanderslaw.group  
6 333 Earle Ovington Blvd, Suite 402  
7 Uniondale, NY 11553  
8 Tel: (516) 203-7600

9 *Attorneys for Plaintiff*  
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18 **UNITED STATES DISTRICT COURT**  
19 **CENTRAL DISTRICT OF CALIFORNIA**

20 Debra Rothenberg,  
21 Plaintiff,  
22 v.  
23 Penske Media Corporation,  
24 Defendant.

25 Case No:  
26  
27 **COMPLAINT FOR:**  
28 **(1) COPYRIGHT**  
29 **INFRINGEMENT UNDER**  
30 **17 U.S.C. §501**  
31 **JURY TRIAL DEMAND**

32 Plaintiff Debra Rothenberg (“*Plaintiff*”), by and through her undersigned  
33 counsel, for her Complaint against defendant Penske Media Corporation  
34 (“*Defendant*”) states and alleges as follows:

35 **INTRODUCTION**

36 1. This action seeks to recover damages for copyright infringement under  
37 the Copyright Act, 17 U.S.C §101 *et seq.*

38 2. Plaintiff created a photograph of English singer-songwriter also known  
39 as Robert Plant (the “*Photograph*”) in which Plaintiff owns the rights and licenses  
40 for various uses including online and print publications.

1       3. Defendant owns and operates a social media account on  
2 www.twitter.com and x.com known as “@Rolling Stone” (the “Account”).  
3

4       4. Defendant, without permission or authorization from Plaintiff, actively  
5 copied and displayed the Photograph on the Account and engaged in this misconduct  
6 knowingly and in violation of the United States copyright laws.  
7

## **PARTIES**

8       5. Plaintiff Debra Rothenberg is an individual who is a citizen of the State  
9 of New York and resides in New York County, New York.  
10

11       6. Upon information and belief, defendant Penske Media Corporation is a  
12 Delaware corporation with a principal place of business at 11175 Santa Monica  
13 Boulevard, Los Angeles in Los Angeles County, California.  
14

## **JURISDICTION AND VENUE**

15       7. This Court has subject matter jurisdiction over the federal copyright  
16 infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.  
17

18       8. This Court has personal jurisdiction over Defendant because it  
19 maintains its principal place of business in California.  
20

21       9. Venue is proper under 28 U.S.C. §1391(b)(2) because Defendant does  
22 business in this Judicial District and/or because a substantial part of the events or  
23 omissions giving rise to the claim occurred in this Judicial District.  
24

## **FACTS COMMON TO ALL CLAIMS**

### **A. Plaintiff's Copyright Ownership**

25       10. Plaintiff is a professional photographer by trade who is the legal and  
26 rightful owner of certain photographs which Plaintiff commercially licenses.  
27

28       11. Plaintiff has invested significant time and money in building Plaintiff's  
29 photograph portfolio.  
30

31       12. Plaintiff has obtained active and valid copyright registrations from the  
32 United States Copyright Office (the “USCO”) which cover many of Plaintiff's  
33

1 photographs while many others are the subject of pending copyright applications.  
2

3 13. Plaintiff's photographs are original, creative works in which Plaintiff  
owns protectable copyright interests.  
4

5 14. On March 8, 2019, Plaintiff first published the Photograph. A copy of  
the Photograph is attached hereto as Exhibit 1.  
6

7 15. In creating the Photograph, Plaintiff personally selected the subject  
matter, timing, lighting, angle, perspective, depth, lens and camera equipment used  
8 to capture the image and made each and every artistic determination necessary for  
9 the creation of the work.  
10

11 16. On April 5, 2019, the Photograph was registered by the USCO under  
Registration No. VA 2-147-408.  
12

13 17. Plaintiff created the Photograph with the intention of it being used  
commercially and for the purpose of display and/or public distribution.  
14

#### **B. Defendant's Infringing Activity**

15 18. Defendant is the registered owner of the Account and is responsible for  
its content.  
16

17 19. Defendant is the operator of the Account and is responsible for its  
content.  
18

19 20. The Account is a key component of Defendant's popular and lucrative  
commercial enterprise.  
20

21 21. Upon information and belief, Defendant is a sophisticated media  
company which owns a comprehensive portfolio of digital marketing assets and has  
22 advanced operational and strategic expertise in an industry where copyright is  
23 prevalent.  
24

25 22. Upon information and belief, Defendant's staff have significant  
experience in copyright matters and are familiar with specific journalistic practices  
26 including the need to ensure that images used in their posts have been properly  
27  
28

1 licensed.

2       23. Upon information and belief, Defendant has not implemented adequate  
3 internal policies to verify copyright ownership before content use, indicating a gross  
4 negligence in legal compliance, which is essential for a company with Defendant's  
5 reach, capabilities, and level of sophistication.

6       24. Upon information and belief, Defendant's internal policies, if any, are  
7 either not designed to verify copyright ownership before content use or are  
8 systematically ignored, indicating a willful, recurring disregard for copyright  
9 compliance.

10       25. Defendant's failure to adopt or effectively enforce internal copyright  
11 policies, if any, indicates *de facto* willful infringement.

12       26. On or about February 13, 2024, without permission or authorization  
13 from Plaintiff, Defendant volitionally copied and displayed Defendant displayed the  
14 Photograph on the Account as part of an on-line post at URL:  
15 <https://x.com/RollingStone/status/1757502123170836495> (the “*Infringement*”). A  
16 copy of a screengrab depicting the Infringement is attached hereto as Exhibit 2.

17       27. The Photograph was intentionally and volitionally copied and stored by  
18 Defendant at URL:  
19 [https://pbs.twimg.com/media/GGPmuBPWoAAe44\\_?format=jpg&name=small](https://pbs.twimg.com/media/GGPmuBPWoAAe44_?format=jpg&name=small).

20       28. The Infringement is an exact copy of Plaintiff's original image that was  
21 directly copied and displayed by Defendant.

22       29. Plaintiff first observed the Infringement on September 6, 2024.

23       30. Upon information and belief, the Photograph was copied and displayed  
24 by Defendant without license or permission, thereby infringing on Plaintiff's  
25 copyrights in and to the Photograph.

26       31. The Infringement includes a URL (“*Uniform Resource Locator*”) for a  
27 fixed tangible medium of expression that was sufficiently permanent or stable to  
28

1 permit it to be communicated for a period of more than a transitory duration and  
2 therefore constitutes a specific infringement.

3 32. Upon information and belief, Defendant takes an active and pervasive  
4 role in the content posted on its Account, including, but not limited to copying,  
5 posting, selecting, commenting on and displaying images including but not limited  
6 to Plaintiff's Photograph.

7 33. Upon information and belief, the Photograph was willfully and  
8 volitionally posted to the Account by Defendant.

9 34. Upon information and belief, the Infringement was not posted at the  
10 direction of a "user", as that term is defined in 17 U.S.C. §512(c).

11 35. Upon information and belief, Defendant was aware of facts or  
12 circumstances from which the determination regarding the Infringement was  
13 apparent. Defendant cannot claim that it was not aware of the infringing activities,  
14 including the specific Infringement which form the basis of this complaint, since  
15 such a claim would amount to only willful blindness to the Infringement on the part  
16 of Defendant.

17 36. Upon information and belief, Defendant engaged in the Infringement  
18 knowingly and in violation of applicable United States copyright laws.

19 37. Upon information and belief, Defendant has the legal right and ability  
20 to control and limit the infringing activities on its Account and exercised and/or had  
21 the right and ability to exercise such right.

22 38. Upon information and belief, Defendant monitors the content on its  
23 Account.

24 39. Upon information and belief, Defendant has received a financial benefit  
25 directly attributable to the Infringement.

26 40. Upon information and belief, the Infringement increased traffic to the  
27 Account and, in turn, caused Defendant to realize an increase in its business revenue.

41. Upon information and belief, a large number of people have viewed the unlawful copies of the Photograph on the Account.

42. Upon information and belief, Defendant at all times had the ability to stop the reproduction and display of Plaintiff's copyrighted material.

43. Defendant's use of the Photograph harmed the actual market for the Photograph.

44. Defendant's use of the Photograph, if widespread, would harm Plaintiff's potential market for the Photograph.

45. On September 20, 2024, Plaintiff, via counsel, served a letter seeking to address the complaints contained herein concerning Defendant's infringement of Plaintiff's rights-protected work.

46. Despite Plaintiff's efforts and willingness to address Defendant's infringing activity, the parties failed to resolve the instant matter and Plaintiff was forced to seek judicial intervention for Defendant's infringing activity.

47. Further, despite Plaintiff's notification to Defendant concerning its infringing activity, Defendant continues to infringe on Plaintiff's work thereby establishing the willful nature of its conduct.

48. As a result of Defendant's misconduct, Plaintiff has been substantially harmed.

## **FIRST COUNT**

***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

49. Plaintiff repeats and incorporates by reference the allegations contained in the preceding paragraphs, as though set forth in full herein.

50. The Photograph is an original, creative work in which Plaintiff owns a valid copyright.

51. The Photograph is properly registered with the USCO and Plaintiff has complied with all statutory formalities under the Copyright Act and under

1 regulations published by the USCO.

2 52. Plaintiff has not granted Defendant a license or the right to use the  
3 Photograph in any manner, nor has Plaintiff assigned any of its exclusive rights in  
4 the copyright to Defendant.

5 53. Without permission or authorization from Plaintiff and in willful  
6 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and  
7 illegally copied, reproduced, distributed, adapted, and/or publicly displayed works  
8 copyrighted by Plaintiff thereby violating one of Plaintiff's exclusive rights in its  
9 copyrights.

10 54. Defendant's reproduction of the Photograph and display of the  
11 Photograph constitutes willful copyright infringement.

12 55. Upon information and belief, Defendant willfully infringed upon  
13 Plaintiff's copyrighted Photograph in violation of Title 17 of the U.S. Code, in that  
14 Defendant used, published, communicated, posted, publicized, and otherwise held  
15 out to the public for commercial benefit, Plaintiff's original and unique Photograph  
16 without Plaintiff's consent or authority.

17 56. As a result of Defendant's violations of Title 17 of the U.S. Code,  
18 Plaintiff is entitled to an award of actual damages and disgorgement of all of  
19 Defendant's profits attributable to the infringements as provided by 17 U.S.C. § 504  
20 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for  
21 statutory damages against Defendant for each infringement pursuant to 17 U.S.C. §  
22 504(c).

23 57. As a result of the Defendant's violations of Title 17 of the U.S. Code,  
24 the court in its discretion may allow the recovery of full costs as well as reasonable  
25 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

26 58. As a result of Defendant's violations of Title 17 of the U.S. Code,  
27 Plaintiff is entitled to injunctive relief to prevent or restrain infringement of  
28

1 Plaintiff's copyright pursuant to 17 U.S.C. § 502.

2 **JURY DEMAND**

3 59. Plaintiff hereby demands a trial of this action by jury.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff respectfully requests that the Court enters a  
6 judgment finding that Defendant has infringed on Plaintiff's rights to the  
7 Photograph in violation of 17 U.S.C. §501 *et seq.* and therefore award damages  
8 and monetary relief as follows:

9 a. finding that Defendant infringed Plaintiff's copyright interest in  
10 and to the Photograph by copying and displaying it without a  
11 license or consent;

12 b. for an award of actual damages and disgorgement of all of  
13 Defendant's profits attributable to the infringements as provided  
14 by 17 U.S.C. § 504(b) in an amount to be proven or, in the  
15 alternative, at Plaintiff's election, an award for statutory damages  
16 against Defendant for each infringement pursuant to 17 U.S.C. §  
17 504(c), whichever is larger;

18 c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant  
19 from any infringing use of any of Plaintiff's works;

20 d. for costs of litigation and reasonable attorney's fees against  
21 Defendant pursuant to 17 U.S.C. § 505

22 e. for pre-judgment interest as permitted by law; and

23 f. for any other relief the Court deems just and proper.

1 DATED: May 20, 2025  
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**SANDERS LAW GROUP**

4 By: /s/ Craig Sanders  
5 Craig Sanders, Esq.  
6 333 Earle Ovington Blvd, Suite 402  
7 Uniondale, NY 11553  
8 Tel: (516) 203-7600  
9 Email: csanders@sanderslaw.group  
File No.: 130794

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*Attorneys for Plaintiff*

